

SERIAL NUMBER 087962-750	U.S. DEPARTMENT OF COMMERCE PATENT OFFICE	DATE OF MEMORANDUM 3-31-04
APPLICATION FILING DATE 11-03-97		APPEAL NUMBER 2003-0922
FORM PTO-262 (5-95)		
EXAMINER'S DISPOSITION OF APPEAL		
To: Clerk, Board of Appeals	From: Group Art Unit _____	
GROUP: Please detach and forward to Board of Appeals promptly, but ONLY if the appeal is suspended or no longer pending.		
<p>The Examiner has:</p> <p><input type="checkbox"/> 1. Withdrawn the final rejection and</p> <p> <input type="checkbox"/> a. allowed all the claims</p> <p> <input type="checkbox"/> b. made a new rejection and reopened the prosecution</p> <p> <input type="checkbox"/> c. other</p> <p><input type="checkbox"/> 2. Maintained the final rejection, but has</p> <p> <input type="checkbox"/> a. instituted an interference which cannot proceed concurrently with the appeal (Note M.P.E.P. 1205)</p> <p> <input type="checkbox"/> b. other</p> <p><input type="checkbox"/> 3. The application is now abandoned.</p> <p>_____ (Date signed)</p> <p>_____ (Signed)</p>		

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

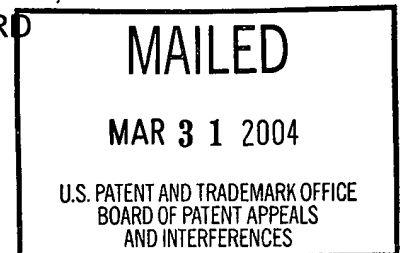
Paper No. 31

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte FREDERICK M. AUSUBEL,
LAURENCE G. RAHME, MAN-WAH TAN,
GARY B. RUYKUN, SHALINA MAHAJAN-MIKLOS,
ANNEGIEN BROEKS, RONALD H.A. PLASTERK,
GEROG JANDER, and JACQUELINE HEARD

Appeal No. 2003-0922
Application No. 08/962,750



ORDER REMANDING TO EXAMINER

This case is back before the Board following an Order Returning Undocketed Appeal to Examiner (Paper No. 26, mailed February 26, 2003) and a Remand to the Examiner (Paper No. 28, mailed November 5, 2003). In response to the Remand (Paper No. 28), the examiner issued a communication entitled "Detailed Action"¹ (Paper No. 29, mailed January 20, 2004).

On March 18, 2004, counsel's Office contacted Dianne E. Maggard, Paralegal Specialist at the Board of Patent Appeals & Interferences, stating they were filing a

¹ This communication is listed as "(Misc. Letter) Reply Brief Noted" on the "Contents" portion of the administrative file. Since this communication is not in response to the Reply Brief, the entry needs correction.

"Petition From Refusal to Admit Amendment Under 37 C.F.R. §§ 1.127 and 1.181" and wanted to know if we would like a courtesy copy. The courtesy copy was faxed on March 22, 2004, and has been assigned Paper No. 30 on the Contents portion of the application. Since the Examiner has not had the opportunity to consider this paper, this application is being remanded.

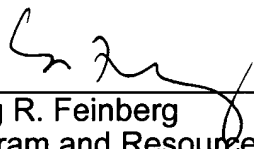
Accordingly, it is

ORDERED that the instant application be remanded to the Examiner to:

- (1) consider the "Petition From Refusal to Admit Amendment Under 37 C.F.R. §§ 1.127 and 1.181," (Paper No. 30)
- (2) written notification to appellants of said notification; and
- (3) for such action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES



Craig R. Feinberg
Program and Resource Administrator
(703) 308-9797

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

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